

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE:)
) CA No. 01-12257-PBS
PHARMACEUTICAL INDUSTRY AVERAGE)
WHOLESALE PRICE LITIGATION) Pages 1 - 87
)

SETTLEMENT HEARING

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
June 13, 2011, 2:20 p.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 7200
Boston, MA 02210
(617) 345-6787

1 reasons for that are: We didn't have a trial verdict or trial
2 benchmarks like we did with AstraZeneca or BMS, and we had to
3 evaluate the liability case, and we just didn't have the hot
4 documents, you know, showing pushing the spread to physicians
5 like we did with AstraZeneca or with BMS. So the liability
6 case wasn't nearly as strong, and we feel that the settlement
7 of \$100 million is substantial, given those risks.

8 THE COURT: Well, wasn't that originally how we
9 decided fast track versus non-fast track, Track One, Track Two?
10 Is that the reason we triaged initially? You cherry-picked the
11 other five.

12 MR. BERMAN: Right, we cherry-picked some
13 multi-source, some not multi-source, yes, so that we put our
14 best case in fast track, AstraZeneca.

15 With respect to the multi-source drug, Dr. Hartman
16 calculated \$800 million of damages, but that was using the
17 30 percent yardstick; and the damages, for the reasons I'll
18 explain in a moment, are probably nonexistent for Class B.
19 First of all, we have the J-Code issue, and on the third page
20 of our slides I had quoted from your trial verdict in which you
21 identified the problem that we would have is, we can't match up
22 any single patient's use of multi-source drug with the
23 defendant manufacturer. So we faced a real problem in that
24 regard. And we were going to propose some market share theory,
25 but, you know, those theories have not been warmly received by